

PROB 12B  
(7/93)

*United States District Court*

**FILED**  
Clerk  
District Court

**FEB 27 2008**

for

*District of the Northern Mariana Islands*

**For The Northern Mariana Islands**  
By \_\_\_\_\_  
(Deputy Clerk)

**Report for Modifying the Conditions or Term of Supervision  
with Consent of the Offender**  
(Probation Form 49, Waiver of Hearings is Attached)

Name of Offender: **Manuel A. Sablan** Case Number: **CR 97-00021-001**

Name of Sentencing Judicial Officer: **Honorable Alex R. Munson**

Date of Original Sentence: **February 19, 1998**

Original Offense: **Distribution of a Scheduled II Controlled Substance, in violation of 21 U.S.C. § 841(a)(1)**

Original Sentence: **120 months incarceration and six years of supervised release with the following conditions: the defendant shall obey all federal, state, and local laws; the defendant shall not possess a firearm or other dangerous weapon; the defendant shall comply with the standard conditions of probation as set forth by the U.S. Probation Office; the defendant shall not use or possess illegal controlled substances and shall submit to one urinalysis within 15 days after release and to two more urinalyses within 60 days thereafter; the defendant shall participate in a program approved by the U.S. Probation Office for substance abuse, which may include but is not limited to random urinalysis or other testing; the defendant shall perform 300 hours of community service under the direction of the U.S. Probation Office; the defendant shall be employed at a lawful occupation and support his dependants; the defendant shall pay to the United States a special assessment fee of \$100 to be paid immediately after sentencing.**

Type of Supervision: **Supervised Release** Date Probation Commenced: **December 8, 2006**

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**PETITIONING THE COURT**

☐ To extend the term of supervision for \_\_\_\_\_ years, for a total term of \_\_\_\_\_ years.

☒ To modify the conditions of supervision as follows:

- The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer.
- The defendant shall complete 50 hours of community service at the direction of the U.S. Probation Office.

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## CAUSE

On September 2, 2005, the Ninth Circuit, in United States v. Stephens, No. 04-50170, addressed 18 U.S.C. § 3583(d) supervised release and 18 U.S.C. § 3563(a)(5) probation mandatory testing conditions which requires that the district court determine the maximum number of mandatory drug tests. The Ninth Circuit held that because the statute requires the district court to determine the maximum number of drug tests under the mandatory condition, transferring this duty to the probation officer was an improper delegation of Article III judicial power.

To assist the Court in determining the appropriate number of drug tests, the undersigned officer has evaluated Mr. Sablan's history of drug use, and the drug detection period of his drug of choice. As methamphetamine is considered one of the drugs of choice and has a normal detection period of four days or less, it is recommended that the maximum number of tests the court order per month be set at eight. This will allow for adequate time intervals between tests which will help facilitate the detection of use. It also provides for enough additional tests so that the pattern of testing will not be predictable to the offender.

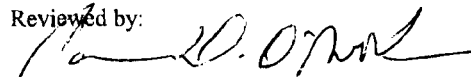
To address the implications of United States v. Stephens Ninth Circuit No. 04-50170, it is respectfully requested that the Court modify Mr. Sablan's mandatory condition to set the maximum number of tests he must submit. It is therefore recommended that the mandatory condition be modified as follows:

"The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer."

Additionally, on February 5, 2008, Mr. Sablan reported to the U.S. Probation Office and was asked to submit to a random drug test, which was presumptive positive for methamphetamine. He admitted to this officer that he smoked "ice" the previous day and signed an Admission of Drug Use form. Mr. Sablan, who was ten days away from completing the one-year drug program, was regressed back to the beginning of the drug testing program and referred to Marianas Psychiatric Services for counseling. He also agreed to a sanction of 50 hours of community service.

Mr. Sablan has been otherwise compliant to his conditions of release. He paid his \$100 special assessment fee on October 19, 2000 and completed his 300 hours of community service on May 9, 2007. He reports monthly as required. Mr. Sablan has agreed to both of the above modifications and attached is a Probation From 49 Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision with his consent.

Reviewed by:

  
CARMEN D. O'MALLAN

U.S. Probation Officer Specialist  
Supervision Unit Leader

Date: 2/27/08

Respectfully submitted,

  
by: MELINDA N. BRUNSON

U.S. Probation Officer

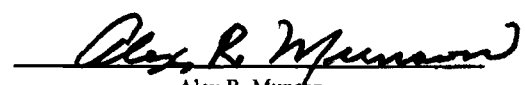
Date: 2/27/08

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**THE COURT ORDERS**

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- ☐ No Action
- ☐ The Extension of Supervision as Noted Above.
- ☒ The Modification of Conditions as Noted Above.
- ☐ Other      Issuance of a:    ☐ Summons    ☐ Warrant

  
Alex R. Munson  
Chief Judge

District Court of the Northern Mariana Islands

2-27-08

Date

## United States District Court

U.S. District Court     **District**     Northern Marianas Islands

### **Waiver of Hearing to Modify Conditions of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

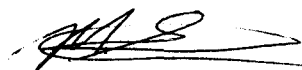
- The defendant shall refrain from any unlawful use of a controlled substance, and shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the probation officer;
- The defendant shall complete 50 hours of community service at the direction of the U.S. Probation Office.

Witness:



Melinda N. Brunson  
U.S. Probation Officer

Signed:



Manuel A. Sablan  
Probationer or Supervised Releasee

2/20/08

Date